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MEMORANDUM ENDORSED

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March 22, 2024

Filed Via ECF With Email Courtesy Copy (GorensteinSettlement@nysd.uscourts.gov)

Magistrate Judge Hon. Gabriel W. Gorenstein
United States District Court for the
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: Donini v. Peaks; Case No. 1:22-cv-09706-RA

Dear Judge Gorenstein:

The parties to the above-entitled action respectfully jointly request an adjournment of the settlement conference, currently scheduled for April 1, 2024, to a date after May 15, 2024. This is the first such request by the parties.

Under the current scheduling order, fact discovery is to be completed by March 31, 2024. However, there is a critical part of fact discovery, relating to the issue of damages, that will not be completed by that date. Briefly, Plaintiff subpoenaed business records from a non-party, Empire Distribution, Inc. (Defendant's record label) consisting of materials evidencing record royalties and other revenues paid to the defendant by Empire. One of Plaintiff's claims is for breach of a management agreement for which she seeks unpaid commissions on all such revenues. Empire's document production was insufficient in that regard, and Plaintiff and Empire are attempting to resolve that dispute informally.¹ Empire has recently agreed to produce additional documents, but it is anticipated that such production will not be completed by April 1, 2024. In addition, those documents will need to be reviewed and analyzed by plaintiff's financial expert. In order for any settlement conference to be meaningful, plaintiff needs to have a complete picture of the extent of her claimed damages, which she would not have without having those documents.

Also, Greg Griffith, counsel for defendant, has a conflict on April 1, 2024 which would not permit him to appear in person that day.

1. The same documents were requested from defendant. He has not produced them and has stated he does not have copies.

Honorable Ronnie Abrams
May 25, 2023
Page 2

Robert Meloni, counsel for plaintiff, will be out of town during May 1-8, 2024.

Therefore, the parties respectfully request that the settlement conference be adjourned to a date after May 15, 2024 that is convenient for the court.

Respectfully submitted,

MELONI & MCCAFFREY APC
By: s/Robert S. Meloni

Attorneys for Plaintiff

Respectfully submitted,

GREG GRIFFITH, ESQ.
By: s/Gregory H. Griffith

Attorneys for Defendant

The joint application to adjourn the settlement conference is granted. The conference is adjourned to May 16, 2024, at 2:30 p.m. in Courtroom 519, 40 Centre Street. Submissions are due May 10, 2024. In the future, please comply with the instructions in Docket # 35 as to the process for seeking an adjournment.

So Ordered.



GABRIEL W. CORENSTEIN
United States Magistrate Judge

March 25, 2024